

109TH CONGRESS
2D SESSION

H. R. 4795

To amend the Higher Education Act of 1965 to require accrediting agencies and associations to comply with due process throughout the accreditation process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2006

Ms. MILLENDER-MCDONALD introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Higher Education Act of 1965 to require accrediting agencies and associations to comply with due process throughout the accreditation process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. RECOGNITION OF ACCREDITING AGENCIES**
4 **AND ASSOCIATIONS.**

5 (a) DUE PROCESS.—Paragraph (6) of section 496(a)
6 of the Higher Education Act of 1965 (20 U.S.C.
7 1099b(a)) is amended to read as follows:

1 “(6) such agency or association shall apply pro-
2 cedures throughout the accrediting process, includ-
3 ing evaluation, interim sanction, and withdrawal or
4 termination of accreditation proceedings, that com-
5 ply with due process, including the right to—

6 “(A) adequate specification of the agency’s
7 accrediting requirements;

8 “(B) written notice of deficiencies at the
9 institution of higher education or program
10 being examined and a reasonable time period,
11 expressly set forth in the notice, to correct the
12 deficiencies;

13 “(C) advance notice of and an opportunity
14 for a hearing by any such institution before the
15 agency’s decision making body prior to the
16 agency’s final consideration of imposition of an
17 adverse action;

18 “(D) appeal any adverse action by the
19 agency against any such institution to an inde-
20 pendent and impartial arbitration panel ap-
21 pointed jointly by the agency and the institution
22 and conducted at the location of the institution;

23 “(E) appeal, at a minimum, the adequacy
24 of the evidence supporting the adverse action
25 decision, the adequacy of the agency’s compli-

1 ance with its own policies and procedures, and
2 the extent to which the decision of the agency
3 was tainted by bias or prejudice of any agent
4 or official of the agency;

5 “(F) representation by counsel for any
6 such institution;

7 “(G) an arbitration panel decision that
8 may affirm or reverse, but not modify, the deci-
9 sion appealed by the institution; and

10 “(H) an allocation of the costs of the ap-
11 peal that requires the agency and institution to
12 each bear its own attorney, witness, and other
13 costs of presentation of its case at the arbitra-
14 tion hearing and shifts the cost of the arbitra-
15 tion panel and any court reporter to the losing
16 party;

17 except that the Secretary may issue regulations to
18 further define due process requirements as needed to
19 protect accredited institutions, but may not by regu-
20 lation reduce due process requirements available to
21 accredited institutions, whether the due process is
22 required under this paragraph or another provision
23 of law or regulation;”.

24 (b) ADDITIONAL CRITERIA.—Section 496(a) is
25 amended—

1 (1) by striking “and” at the end of paragraph
2 (7);

3 (2) by striking the period at the end of para-
4 graph (8) and inserting a semicolon; and

5 (3) by adding at the end the following new
6 paragraphs:

7 “(9) if an agency or association conducts an as-
8 sessment of an institution’s governing board—

9 “(A) such assessment shall consistently
10 apply the accreditation standard, to the great-
11 est extent possible, to any State-appointed re-
12 ceiver, special trustee, or similar interim gov-
13 erning authority, until such time as governing
14 authority is returned to the regular governing
15 board; and

16 “(B) such agency or association shall not
17 terminate accreditation solely on the ground
18 that the institution is under interim manage-
19 ment of a State-appointed receiver, special
20 trustee, or similar governing authority unless
21 the agency or association determines that there
22 are other deficiencies at the institution that
23 provide grounds for termination, and that, after
24 providing due process required by this section,
25 the interim governing authority has not cor-

1 rected such deficiencies within a reasonable pe-
2 riod of time; and

3 “(10) such agency or association, and any offi-
4 cer or subdivision of such agency or association that
5 makes accreditation recommendations to its deci-
6 sion-making board, shall conduct meetings open to
7 public observation and comment and shall, at least
8 7 days before the time of any such meeting, post
9 and distribute its meeting agenda electronically and
10 otherwise to the public, and, for purposes of this
11 paragraph—

12 “(A) the term ‘meetings’ includes all meet-
13 ings, hearings, appeals, deliberations, and votes
14 on accreditation matters regarding any edu-
15 cational institution or on accrediting standards,
16 policies, or procedures; and

17 “(B) the Secretary shall issue regulations
18 to implement this paragraph.”.

19 (c) RECOGNITION OF STATE ACCREDITING AGEN-
20 CIES.—Section 496(a)(3)(B) (20 U.S.C. 1099b(a)(3)(B))
21 is amended by striking “on or before October 1, 1991”.

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